

EXHIBIT X

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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19
 20 ORACLE USA, INC., et al.,
 21 Plaintiffs,
 22 v.
 23 SAP AG, et al.,
 24 Defendants.

Case No. 07-CV-1658 PJH (EDL)

**PLAINTIFFS' THIRD SET OF
 REQUESTS FOR ADMISSION TO
 DEFENDANTS TOMORROWNOW,
 INC., SAP AG, AND SAP AMERICA,
 INC.**

1 **PROPOUNDING PARTY:** Plaintiffs

2 **RESPONDING PARTY:** TomorrowNow, Inc., SAP AG, and SAP
3 America, Inc.

4 **SET NUMBER:** Three

5 Pursuant to Federal Rule of Civil Procedure 36 and the Local Rules of the U.S.
6 District Court for the Northern District of California, plaintiffs Oracle USA, Inc., Oracle
7 International Corporation, and Oracle EMEA Limited (“Oracle”) propound the following
8 requests for admission to Defendants TomorrowNow, Inc., SAP AG, and SAP America, Inc.
9 (collectively, “Defendants”), to which Defendants are required to respond within 30 days of
10 service of these requests. Pursuant to Federal Rule of Civil Procedure 36(a), Defendants’ failure
11 to timely respond to the requests for admission will result in each request being deemed
12 admitted.

13 **DEFINITIONS**

14 Unless otherwise indicated, the following definitions shall apply to each of the Requests
15 for Admission below.

16 1. The use of the singular form of any word includes the plural and vice
17 versa. The past tense shall include the present tense and vice versa. The masculine gender
18 includes the feminine and neuter genders; the neuter gender includes the masculine and feminine
19 genders.

20 2. “All,” “any,” and “each” shall be construed as “any and every.”

21 3. “And” and “or,” as used herein, shall be construed both conjunctively and
22 disjunctively and each shall include the other whenever such construction will serve to bring
23 within the scope of these Requests any information that would not otherwise be brought within
24 their scope.

25 4. “Copy” in the noun form shall mean a copy, duplication, clone, backup,
26 download, restore, and/or a compressed copy, and in the verb form shall mean to copy, duplicate,
27 clone, backup, download, and/or restore.

28 5. “Customer” refers to Defendants’ current and former customers and

1 clients, including without limitation all customers ever listed or described on SAP TN’s website.

2 6. “Customer Connection” means the Oracle-maintained support website for
3 PeopleSoft and JD Edwards customers and all associated Software and Support Materials,
4 hardware, software, physical server locations, and internet protocol addresses.

5 7. “Database” shall mean and include those components of a PeopleSoft
6 Environment generally referred to by the “DATABASE_RESTORE” field in BakTrak, as
7 produced by Defendants at TN-OR06125330, and including PeopleSoft metadata, tables,
8 indexes, PeopleCode, definitions, and application engine files.

9 8. “Defendant(s)” shall mean defendants SAP AG, SAP America, Inc., and
10 TomorrowNow, Inc.

11 9. “Develop,” “Developed,” or other forms of the word shall mean to
12 modify, alter, write, create, generate, code, or program any software file or other discrete unit of
13 software code.

14 10. “Download” means any duplication, Copying, transfer, or replication, in
15 whole or in part, of any file, document, data, or other information from an outside source
16 connected through the internet to a computer, server, or network that is part of another Person’s
17 computer infrastructure or subject to that Person’s control.

18 11. “Employee(s)” means past and present officers, executives, directors,
19 employees, attorneys, agents, representatives, and other Persons acting or purporting to act on
20 behalf of the entity to which the term refers.

21 12. “Environment” shall mean any full or partial install of a PeopleSoft
22 application, and may include the PS_Home portion only, the Database portion only, or both
23 together.

24 13. “Fix” means any software application patch, fix, code change, or update,
25 including bug fixes, tax or regulatory updates or bundles, their constituent discrete units of code,
26 data files, or any other instructional documentation or item.

27 14. “Fix Object” means any discrete unit of code that can contain functions,
28 data, variables, and/or other data structures, including PeopleCode objects, fields, records, pages,

1 menus, components, messages, panels, stored statements, panel groups, rule packages, COBOL
2 source code files, COBOL executables, SQR files, SQC files, writer files, Crystal Reports files,
3 SQL scripts, database creation scripts, DAT files, DMS files, project files, batch files,
4 configuration files, or other similar units of code contained in the PeopleSoft or JD Edwards
5 products serviced or supported by any Defendant.

6 15. "Generic Environment" means any Local Environment named without
7 reference to any specific Customer (e.g., HR751CSS).

8 16. "Including" shall be construed to mean "including without limitation" or
9 "including, but not limited to."

10 17. "Intellectual Property" shall be treated as that term is generally defined
11 and understood and includes, but is not limited to, Oracle-branded applications and/or associated
12 Software and Support Materials (as defined below) as well as software applications and/or
13 associated Software and Support Materials that are PeopleSoft-branded, JD Edwards-branded, or
14 Siebel-branded.

15 18. "Local Environment" shall mean any Environment ever installed on,
16 maintained on, or which ever resided or was present on any computer, storage device, or any
17 other electronic media that was ever in the possession, custody, or control of any Defendant.

18 19. "Online Objects" shall mean and include the following types of
19 components of a PeopleSoft Environment: PeopleCode objects, fields, records, pages, menus,
20 components, messages, panels, stored statements, panel groups, and/or rule packages.

21 20. "Oracle" means plaintiffs Oracle USA, Inc., Oracle International
22 Corporation, and Oracle EMEA Limited, their predecessors, successors, employees, directors,
23 managers, consultants, agents, and any other Person acting on their behalf.

24 21. "PeopleSoft Customers" means Customers for whom TomorrowNow,
25 Inc. ever provided any support or maintenance services for PeopleSoft software applications.

26 22. "Person(s)" means, without limitation, any individual or entity.

27 23. "PS_Home" shall mean and include those components of a PeopleSoft
28 Environment generally referred to by the "NT_RESTORE" and "UNIX_RESTORE" fields in

1 BakTrak, as produced by Defendants at TN-OR06125330, and including application files,
2 PeopleTools, COBOLs, SQRs, writer files, SQL scripts, DMS scripts, Crystal Report files, and
3 configuration files.

4 24. “Registered Works” means the works identified in paragraphs 153 and 155
5 of the Third Amended Complaint and including as identified in Oracle's production on Exhibit Z,
6 and any subsequently added copyright registrations in any later amended complaint.

7 25. “Rimini Street” means Rimini Street, Inc., its predecessors, successors,
8 employees, directors, managers, consultants, agents, and any other Person acting on its behalf.

9 26. “SAP” means defendants SAP AG, SAP America, Inc., their predecessors,
10 successors, employees, directors, managers, consultants, agents, and any other Person acting on
11 their behalf.

12 27. “SAP America” means defendant SAP America, Inc., its predecessors,
13 successors, employees, directors, managers, consultants, agents, and any other Person acting on
14 its behalf.

15 28. “SAP AG” means defendant SAP AG, its predecessors, successors,
16 employees, directors, managers, consultants, agents, and any other Person acting on its behalf.

17 29. “SAP IP” means all copyright registrations related to all releases of all
18 applications contained within SAP’s Business Suite, including, but not limited to, SAP’s
19 Enterprise Resource Planning, Customer Relationship Management, Product Lifetime
20 Management, Supply Chain Management, and Supplier Relationship Management applications.
21 For the avoidance of doubt, this includes all registrations related to SAP R/3 4.0B, SAP R/3
22 4.5B, SAP R/3 4.6B, SAP R/3 4.6C, SAP R/3 4.70, SAP ECC 5.0 ERP, and SAP ECC 6.0 ERP.

23 30. “SAP TN” means defendant TomorrowNow, Inc., its predecessors,
24 successors, employees, directors, managers, consultants, agents, and any other Person acting on
25 its behalf.

26 31. “Software and Support Materials” means, without limitation, all program
27 updates, software updates, bug fixes, patches, custom solutions, and instructional materials,
28 created or owned by Oracle, or derived from, copied from, or based on any such materials,

1 including by SAP AG, SAP America, or SAP TN, across the entire family of PeopleSoft-, JD
2 Edwards-, and Siebel-branded products.

3 32. "Update" means any software application patch, fix, or update, including
4 bug fixes, tax or regulatory updates or bundles, their constituent discrete units of code, data files,
5 or any other instructional documentation or item.

6 **REQUESTS FOR ADMISSION**

7
8 **REQUEST NO. 1.**

9 Admit that TN Hard Drive 78, produced as TN-OR04497668, satisfies the authenticity
10 requirements of Rule 901(a) of the Federal Rules of Evidence.

11
12 **REQUEST NO. 2.**

13 For each item 1-4337 on Exhibit C, admit that the listed directory is present on TN-
14 OR04497668.

15
16
17 **REQUEST NO. 3.**

18 For each item 1-4337 on Exhibit C, admit that the listed file or folder is present on TN-
19 OR04497668 in the directory listed for the respective item.

20
21 **REQUEST NO. 4.**

22 For each item 1-4337 on Exhibit C, admit that a Copy of the listed file or folder is or was present
23 on SAP TN server MAIL03.

24
25
26 **REQUEST NO. 5.**

27 For each item 1-4337 on Exhibit C, admit that the listed recipient is an entity listed on Defendant
28

Exhibit D

Exhibit D

Item	File or Folder	Recipient	Fix Object
1	Mail03\ClientFix\0104051002\BRH-TN-0104051002\BRH-TN-0104051002.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0104051002\0104051002\0104051002_BATCH\data\UPD0104051002_TN.dat
2	Mail03\ClientFix\0104051002\BSC-TN-0104051002\BSC-TN-0104051002.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0104051002\0104051002\0104051002_BATCH\data\UPD0104051002_TN.dat
3	Mail03\ClientFix\0104051002\BYU-TN-0104051002\BYU-TN-0104051002.ZIP	Brigham Young University	BYU-TN-0104051002\0104051002\0104051002_BATCH\data\UPD0104051002_TN.dat
4	Mail03\ClientFix\0104051002\NCL-TN-0104051002\NCL-TN-0104051002.ZIP	Norwegian Cruise Lines Ltd.	NCL-TN-0104051002\0104051002\0104051002_BATCH\data\UPD0104051002_TN.dat
5	Mail03\ClientFix\0104051002\USA-TN-0104051002\USA-TN-0104051002.ZIP	United Space Alliance	USA-TN-0104051002\0104051002\0104051002_BATCH\data\UPD0104051002_TN.dat
6	Mail03\ClientFix\0104054962\ACT-TN-0104054962\ACT-TN-0104054962.ZIP	AC Transit	ACT-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
7	Mail03\ClientFix\0104054962\BRH-TN-0104054962\BRH-TN-0104054962.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
8	Mail03\ClientFix\0104054962\BSC-TN-0104054962\BSC-TN-0104054962.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
9	Mail03\ClientFix\0104054962\BYU-TN-0104054962\BYU-TN-0104054962.ZIP	Brigham Young University	BYU-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
10	Mail03\ClientFix\0104054962\NCL-TN-0104054962\NCL-TN-0104054962.ZIP	Norwegian Cruise Lines Ltd.	NCL-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
11	Mail03\ClientFix\0104054962\UNO-TN-0104054962\UNO-TN-0104054962.ZIP	University of New Orleans	UNO-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
12	Mail03\ClientFix\0104054962\UOM-TN-0104054962\UOM-TN-0104054962.ZIP	University of Massachusetts	UOM-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
13	Mail03\ClientFix\0104054962\USA-TN-0104054962\USA-TN-0104054962.ZIP	United Space Alliance	USA-TN-0104054962\0104054962\0104054962_BATCH\data\UPD0104054962_TN.DAT
14	Mail03\ClientFix\0128055737\BRH-TN-0128055737\BRH-TN-0128055737.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_1_TN.DAT
15	Mail03\ClientFix\0128055737\BRH-TN-0128055737\BRH-TN-0128055737.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_TN.DAT
16	Mail03\ClientFix\0128055737\BSC-TN-0128055737\BSC-TN-0128055737.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_1_TN.DAT
17	Mail03\ClientFix\0128055737\BSC-TN-0128055737\BSC-TN-0128055737.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_TN.DAT
18	Mail03\ClientFix\0128055737\BYU-TN-0128055737\BYU-TN-0128055737.ZIP	Brigham Young University	BYU-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_1_TN.DAT
19	Mail03\ClientFix\0128055737\BYU-TN-0128055737\BYU-TN-0128055737.ZIP	Brigham Young University	BYU-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_TN.DAT
20	Mail03\ClientFix\0128055737\NCL-TN-0128055737\NCL-TN-0128055737.ZIP	Norwegian Cruise Lines Ltd.	NCL-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_1_TN.DAT
21	Mail03\ClientFix\0128055737\NCL-TN-0128055737\NCL-TN-0128055737.ZIP	Norwegian Cruise Lines Ltd.	NCL-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_TN.DAT
22	Mail03\ClientFix\0128055737\USA-TN-0128055737\USA-TN-0128055737.ZIP	United Space Alliance	USA-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_1_TN.DAT
23	Mail03\ClientFix\0128055737\USA-TN-0128055737\USA-TN-0128055737.ZIP	United Space Alliance	USA-TN-0128055737\0128055737\0128055737_BATCH\data\UPD0128055737_TN.DAT
24	Mail03\ClientFix\0131056252\BRH-TN-0131056252\BRH-TN-0131056252.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0131056252\0131056252\0131056252_BATCH\data\UPD0131056252_TN.DAT
25	Mail03\ClientFix\0131056252\BSC-TN-0131056252\BSC-TN-0131056252.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0131056252\0131056252\0131056252_BATCH\data\UPD0131056252_TN.DAT
26	Mail03\ClientFix\0131056252\BYU-TN-0131056252\BYU-TN-0131056252.ZIP	Brigham Young University	BYU-TN-0131056252\0131056252\0131056252_BATCH\data\UPD0131056252_TN.DAT
27	Mail03\ClientFix\0131056252\CWS-TN-0131056252\CWS-TN-0131056252.ZIP	California Water Services	CWS-TN-0131056252\0131056252\0131056252_BATCH\data\UPD0131056252_TN.DAT
28	Mail03\ClientFix\0131056252\NCL-TN-0131056252\NCL-TN-0131056252.ZIP	Norwegian Cruise Lines Ltd.	NCL-TN-0131056252\0131056252\0131056252_BATCH\data\UPD0131056252_TN.DAT
29	Mail03\ClientFix\0304076046\SKY-TN-0304076046\SKY-TN-0304076046.zip	Sky City Entertainment Group Limited	SKY-TN-0304076046\TN-0304076046\TN-0304076046_BATCH\Data\tn076046_dat.dat
30	Mail03\ClientFix\0411053569\ADV-TN-0411053569\ADV-TN-0411053569.ZIP	Advance Auto Parts	ADV-TN-0411053569\0411053569\0411053569_BATCH\data\UPD0411053569_TN.DAT
31	Mail03\ClientFix\0411053569\BRH-TN-0411053569\BRH-TN-0411053569.ZIP	Berkshire Realty Holdings, L.P.	BRH-TN-0411053569\0411053569\0411053569_BATCH\data\UPD0411053569_TN.DAT
32	Mail03\ClientFix\0411053569\BSC-TN-0411053569\BSC-TN-0411053569.ZIP	Bear Stearns & Co., Inc.	BSC-TN-0411053569\0411053569\0411053569_BATCH\data\UPD0411053569_TN.DAT
33	Mail03\ClientFix\0411053569\CKE-TN-0411053569\CKE-TN-0411053569.ZIP	CKE Restaurants, Inc.	CKE-TN-0411053569\0411053569\0411053569_BATCH\data\UPD0411053569_TN.DAT

Exhibit D

33182	Mail03\ClientFix\TN-PY08MAR\UOM-TN-PY08MAR\UOM-TN-PY08MAR.zip	University of Massachusetts	PY08MAR\PY08MAR_BATCH\src\cbl\base\PSPTCALC.cbl
33183	Mail03\ClientFix\TN-PY08MAR\WAK-TN-PY08MAR\WAK-TN-PY08MAR.zip	Wakefern Food Corporation	PY08MAR\PY08MAR_BATCH\src\cbl\base\PSPTCALC.cbl
33184	Mail03\ClientFix\TN-PY08MAR\WAK-TN-PY08MAR\WAK-TN-PY08MAR.zip	Wakefern Food Corporation	PY08MAR\PY08MAR_BATCH\src\cbl\base\PSPUSTAX.cbl
33185	Mail03\ClientFix\TN-PY08MAR\WMI-TN-PY08MAR\WMI-TN-PY08MAR.zip	USA Waste Management Resources, LLC	PY08MAR\PY08MAR_BATCH\src\cbl\base\PSPTCALC.cbl
33186	Mail03\ClientFix\TN-PY08MAR\WMI-TN-PY08MAR\WMI-TN-PY08MAR.zip	USA Waste Management Resources, LLC	PY08MAR\PY08MAR_BATCH\src\cbl\base\PSPUSTAX.cbl

PROOF OF SERVICE

I am over eighteen years of age, not a party in this action, and employed in San Francisco County, California at Three Embarcadero Center, San Francisco, California 94111-4067. I am readily familiar with the practice of this office for collection and processing of correspondence for mail/hand delivery/electronic mail, and they are deposited that same day in the ordinary course of business.

Today, I served the attached:

PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS

(PERSONAL SERVICE) by causing a true and correct copy of the above documents to be hand delivered in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth below.

(BY ELECTRONIC MAIL) by transmitting via electronic mail document(s) in portable document format (PDF) listed below to the email address set forth below on this date.

(BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.

BY HAND DELIVERY & EMAIL

BY EMAIL AND U.S. MAIL

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1 I declare that I am employed in the office of a member of the bar of this court at
2 whose direction the service was made and that this declaration was executed on May 20, 2009 at
3 San Francisco, California.

4 
5 Rosaleen Doran

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